

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Joe Boswell,

Plaintiff,

v.

Synchrony Bank f/k/a GE Capital Retail Bank;
and DOES 1-10, inclusive,

Defendants.

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: Civil Action No.: 1:14-cv-13994
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: **COMPLAINT**
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For this Complaint, the Plaintiff, Joe Boswell, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendants' repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq.* (the "TCPA"), and violations of the Massachusetts Consumer Protection Act, M.G.L. c. 93A § 2, *et seq.*

2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendants transact business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

4. The Plaintiff, Joe Boswell ("Plaintiff"), is an adult individual residing in Chelmsford, Massachusetts, and is a "person" as defined by 47 U.S.C. § 153(39).

5. Defendant Synchrony Bank f/k/a GE Capital Retail Bank ("Synchrony"), is a Ohio business entity with an address of 950 Forrer Boulevard, Kettering, Ohio 45420, and is a "person" as defined by 47 U.S.C. § 153(39).

FACTS

6. In or around January 2014, Synchrony began placing calls to Plaintiff's cellular telephone, number 910-xxx-1837, in an attempt to collect a consumer debt (the "Debt") allegedly owed by Plaintiff.

7. During all times mentioned herein, Synchrony called Plaintiff on his cellular telephone by using a prerecorded or artificial message.

8. Synchrony used an automated voice when placing calls to Plaintiff which stated: "This is GE calling in regards to your past due account, please contact us in regards to this account".

9. Plaintiff spoke to Synchrony on numerous occasions and requested that Synchrony cease calling his cellular phone.

10. Synchrony continued to place repeated calls to Plaintiff's cellular phone despite lacking Plaintiff's permission. Synchrony placed over fifty calls to Plaintiff's cellular phone after his original request for the calls to cease, at the rate of over three calls per week.

11. The repeated calls caused Plaintiff significant inconvenience and concern.

COUNT I **VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –** **47 U.S.C. § 227, et seq.**

12. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

13. Defendants contacted Plaintiff by means of prerecorded voice calls to his cellular phone knowing that it lacked consent to call his number in light of him telling Defendants to stop calling. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

14. The calls from Defendants to Plaintiff were not placed for “emergency purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).

15. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call made in negligent violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

16. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

COUNT II
VIOLATIONS OF THE MASSACHUSETTS CONSUMER PROTECTION ACT,
M.G.L. c. 93A § 2, et seq.

17. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

18. The Defendants employed unfair or deceptive acts to collect the Debt, in violation of M.G.L. c. 93A § 2.

19. The Defendants initiated communication via telephone with the Plaintiff in excess of two calls in each seven-day period in violation of 940 CMR § 7.04(1)(f).

20. Defendants’ failure to comply with these provisions constitutes an unfair or deceptive act under M.G.L. c. 93A § 9 and, as such, the Plaintiff is entitled to double or treble damages plus reasonable attorney’s fees.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against Defendants:

1. Statutory damages pursuant to 47 U.S.C. § 227(b)(3)(B) & (C);
2. Double or treble damages plus reasonable attorney’s fees pursuant to M.G.L. c. 93A § 3(A);
3. Punitive damages; and

4. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: October 27, 2014

Respectfully submitted,

By /s/ Sergei Lemberg

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